

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X		
RICHARD ROSARIO,	:	
	:	
Plaintiff,	:	
	:	18 Civ. 4023 (LGS)
-against-	:	
	:	<u>ORDER</u>
CITY OF NEW YORK, et al.,	:	
Defendants.	:	
	:	
-----X		

LORNA G. SCHOFIELD, District Judge:

WHEREAS, on July 19, 2022, Defendants filed a letter motion to compel Plaintiff to produce communications with non-party witnesses (Dkt. No. 408).

WHEREAS, Plaintiff's expert, Gerard R. Grant Jr., was directed to review Plaintiff's phone, and if Mr. Grant identified any responsive communications, Plaintiff was directed to produce such communications, including any corresponding metadata, by July 22, 2022.

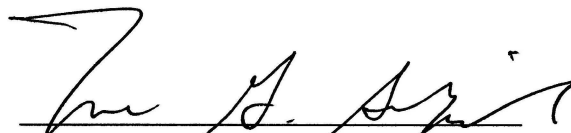
WHEREAS, on July 23, 2022, Defendants filed, under seal, a successive motion to compel Plaintiff's communications with non-party witnesses on the ground that Plaintiff's production was incomplete, and Plaintiff submitted a response to Chambers by email on July 24, 2022. It is hereby

ORDERED that Defendants' motion to compel is DENIED. Mr. Grant examined Plaintiff's phone and was unable to locate any deleted or active messages between Plaintiff and John Torres. Mr. Grant explained that he was not able to retrieve deleted messages because "the newer versions of the Apple Operating System are designed to quickly purge deleted information from the databases on the device." As to communications with other non-party witnesses, Plaintiff's counsel confirmed with Mr. Grant that the few messages on Plaintiff's phone were not

sent to any witnesses. Mr. Grant further confirmed that emails cannot be extracted from the phone.

The Clerk of Court is respectfully directed to close the motion at Docket No. 420.

Dated: July 25, 2022
New York, New York



LORNA G. SCHOFIELD
UNITED STATES DISTRICT JUDGE